S.B. Civil Second Appeal No.342/2004

Amrit Lal Vs. LR's of Lalit Kumar

Date of Order :: 18-10-2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. H.R. Soni, for the appellant.

Heard learned counsel for the appellant.

After going through the facts of the case, I do not find any illegality in the judgment of the appellate Court whereby the suit of the plaintiff was decreed for eviction against the defendant-tenant on the ground of personal bonafide necessity of legal representatives of deceased Lalit Kumar.

Learned counsel for the appellant submits that appellant is living in the house since last more than 40 years and presently he is suffering from Paralysis, therefore, a reasonable time may be granted to the appellant to vacate the premises.

In view of the above, peculiar facts of the case, though the appeal deserves to be dismissed, time may be granted to the appellant to vacate the premises. Therefore, it is ordered that decree under challenge shall not be executed upto 31.10.2005 upon furnishing a written

undertaking by the appellant within one month from today before the trial Court, undertaking that the defendant shall not sub-let the property in dispute to anybody during this period and appellant shall handover vacant possession of the premises to the landlord on or before 1.11.2005. The appellant is further directed to deposit the mense profit in the trial Court month by month by 15th day of each calender month or may pay directly to the landlord. In case of non furnishing of the undertaking or in case of default in payment of rent of any month, the decree shall become executable forthwith. However, it is made clear that to avoid further delay, this order has been passed without notice to the respondent landlord and in case the respondents are aggrieved against granting of time by this Court, they may move application for recalling of the order and the appropriate order may be passed after hearing them.

With above concession, the appeal of the appellant is dismissed.

[PRAKASH TATIA],J.

Praveen